

RALPH ROGERS

IBLA 75-517

Decided September 10, 1975

Appeal from decision of the District Office, Bureau of Land Management, Casper, Wyoming, canceling grazing lease W6-GL-517.

Appeal dismissed.

1. Grazing Leases: Cancellation or Reduction -- Rules of Practice:
Appeals: Dismissal

An appeal from a decision canceling a grazing lease for loss of control of non-federal lands upon which the lease was based will be dismissed where the lease has expired by its terms. The dismissal will be without prejudice to a new lease application for the grazing lands which the appellant may decide to submit.

APPEARANCES: Ralph Rogers, pro se.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

Ralph Rogers appeals from a decision of the District Office, Bureau of Land Management, Casper, Wyoming, canceling his grazing lease W6-GL-517. The lease was issued March 22, 1965, pursuant to section 15 of the Taylor Grazing Act, as amended, 43 U.S.C. § 315m (1970), for a period of ten years as a renewal of appellant's original grazing lease.

Appellant's lease states that he controls certain lands upon which he bases a preference right. The District Office canceled appellant's lease because it determined that he no longer controlled the nonfederal lands upon which the lease was based. The decision cited 43 CFR 4125.1-1(i)(4) as authority for such a cancellation. Appellant does not dispute this determination.

[1] This case has reached us in an unusual posture. On the one hand, appellant offers no reasons showing how the District Office decision is in error. This is tantamount to filing no statement of reasons and subjects the appeal to summary dismissal under 43 CFR 4.402. See John F. Brown, 16 IBLA 185 (1974). On the other hand, appellant's lease expired by its terms on March 21, 1975. In a case involving a reduction of grazing acreage, we held that expiration of the lease term mooted the question of the carrying capacity of the range. The Board then dismissed the appeal without prejudice to the lessee applying for a future lease and introducing evidence at that time. John T. Murtha, 19 IBLA 97, 101-102 (1975).

Since appellant's lease has expired, we find that the question of his loss of control of the non-federal lands is moot. We therefore dismiss his appeal without prejudice. Appellant may, if he so desires, apply for a new lease of the grazing lands. At that time, he must demonstrate his qualifications for such a lease and may introduce evidence to establish a preference right. See 43 CFR Subpart 4121. Adjudication of such an application and any conflicting applications will be in accordance with the preference order prescribed by 43 CFR 4121.2-1(c).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal is dismissed.

Joan B. Thompson
Administrative Judge

We concur:

Joseph W. Goss
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

